



Senate

General Assembly

February Session, 2000

File No. 192

Senate Bill No. 576

Senate, March 22, 2000

The Committee on General Law reported through SEN. COLAPIETRO of the 31st Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

An Act Concerning Occupational Services Contractors.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) As used in sections 1 to 10, inclusive, of this act:
- 2 (1) "Commissioner" means the Commissioner of Consumer
- 3 Protection;
- 4 (2) "Plumbing and piping work" means plumbing and piping work,
- 5 as defined in section 20-330 of the general statutes;
- 6 (3) "Heating, piping and cooling work" means heating, piping and
- 7 cooling work, as defined in section 20-330 of the general statutes;
- 8 (4) "Occupational services contractor" means any business
- 9 organization, including without limitation any corporation,
- 10 association, firm or partnership (A) that offers or advertises to the
- 11 public, or otherwise solicits the public to engage the services of its
- 12 employees or of any other business organization as a subcontractor in

13 plumbing and piping work or heating, piping and cooling work, (B)
14 that is not required to register under sections 20-341s to 20-341bb,
15 inclusive, of the general statutes, and is acting as a subcontractor in
16 plumbing and piping work or heating, piping and cooling work, and
17 (C) of which the owner, principal or officer is not a licensed contractor
18 under chapter 393 of the general statutes. "Occupational services
19 contractor" does not include an individual licensed under chapter 393
20 of the general statutes.

21 Sec. 2. (NEW) No occupational services contractor shall engage in
22 plumbing and piping work or heating, piping and cooling work, or
23 offer to perform such work, in this state without first obtaining a
24 certificate of registration from the commissioner as provided in
25 sections 3 to 5, inclusive, of this act.

26 Sec. 3. (NEW) (a) Any applicant for an occupational services
27 contractor certificate shall apply to the commissioner, in writing, on a
28 form provided by the commissioner. Such application shall include the
29 applicant's name, business name, business address and such other
30 information as the commissioner may require.

31 (b) An applicant for a certificate of registration shall submit
32 satisfactory proof establishing that the applicant: (1) Has no
33 outstanding obligations to the state, including tax payments owed to
34 the state; (2) subcontracts with or employs only persons licensed or
35 registered pursuant to chapter 393 of the general statutes; and (3)
36 agrees that all plumbing and piping work or heating, piping and
37 cooling work shall be performed in accordance with chapter 393 of the
38 general statutes.

39 Sec. 4. (NEW) Upon receipt of a completed application and
40 nonrefundable fee of one hundred ten dollars the commissioner shall:
41 (1) Issue and deliver to the applicant a certificate of registration as an
42 occupational services contractor; or (2) refuse to issue the certificate.
43 The commissioner may suspend, revoke or refuse to renew any

44 certificate issued under sections 3 to 5, inclusive, of this act. The
45 commissioner shall not revoke or suspend any certificate of
46 registration except upon notice and hearing in accordance with the
47 provisions of chapter 54 of the general statutes.

48 Sec. 5. (NEW) (a) Upon refusal to issue or renew a certificate under
49 section 4 of this act, the commissioner shall notify the applicant, by
50 certified mail, of the refusal and of the applicant's right to request a
51 hearing within ten days from the date of receipt of the notice of refusal.

52 (b) If the applicant requests a hearing, the commissioner shall give
53 notice of the grounds for the refusal and shall conduct a hearing
54 concerning such refusal in accordance with the provisions of chapter
55 54 of the general statutes, concerning contested cases.

56 Sec. 6. (NEW) (a) The commissioner may conduct investigations and
57 hold hearings on any matter under the provisions of sections 2 to 7,
58 inclusive, of this act. The commissioner may issue subpoenas,
59 administer oaths, compel testimony and order the production of
60 books, records and documents. If any person refuses to appear to
61 testify or to produce any book, record or document when so ordered,
62 upon the application of the commissioner, a judge of the Superior
63 Court may make such order as may be appropriate.

64 (b) The Attorney General, at the request of the commissioner, is
65 authorized to apply in the name of the state to the Superior Court for
66 an order temporarily or permanently restraining and enjoining any
67 contractor from violating any provision of sections 2 to 7, inclusive, of
68 this act.

69 Sec. 7. (NEW) (a) Each occupational services contactor shall display
70 its registration number as issued by the commissioner on all
71 commercial vehicles used in its business and shall display such
72 number in a conspicuous manner on all printed advertisements, bid
73 proposals, contracts, invoices and stationery used in its business. The

74 Department of Consumer Protection shall keep a register listing the
75 names of all businesses to whom such certificates of registration are
76 issued.

77 (b) No occupational services contractor shall: (1) Present or attempt
78 to present, as its own, the certificate of another, (2) knowingly give
79 false evidence of a material nature to the commissioner for the purpose
80 of procuring a certificate, (3) use or attempt to use an expired,
81 suspended or revoked certificate, (4) offer to perform or perform any
82 plumbing and piping work or any heating, piping and cooling work
83 without having first obtained a certificate of registration under sections
84 3 to 5, inclusive, of this act, or (5) represent in any manner that its
85 registration constitutes an endorsement of the quality of its
86 workmanship or of its competency by the commissioner. A violation of
87 any of the provisions of sections 2 to 7, inclusive, of this act, shall be
88 deemed an unfair or deceptive trade practice under subsection (a) of
89 section 42-110b of the general statutes.

90 (c) A certificate issued to an occupational services contractor is valid
91 for one year and is nontransferable and is not assignable.

92 (d) The annual renewal fee for a certificate is fifty-five dollars.

93 Sec. 8. (NEW) Sections 1 to 7, inclusive, of this act, do not apply to
94 the following persons or organizations: (1) The government of the
95 state, municipalities of the state or any department or agency of the
96 state or such municipalities; (2) the government of the United States or
97 any of its departments or municipalities; or (3) any school, public or
98 private, offering as part of a vocational education program courses and
99 training in any aspect of plumbing and piping work or heating, piping
100 and cooling work.

101 Sec. 9. (NEW) The commissioner may adopt regulations, in
102 accordance with the provisions of chapter 54 of the general statutes, in
103 order to carry out the provisions of sections 3 to 7, inclusive, of this act.

104 Sec. 10. (NEW) Any occupational services contractor aggrieved by
105 an order or decision of the commissioner under sections 3 to 7,
106 inclusive, of this act, may appeal from such order or decision in
107 accordance with the provisions of section 4-183 of the general statutes.

GL Committee Vote: Yea 15 Nay 0 JF

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Revenue Gain

Affected Agencies: Department of Consumer Protection

Municipal Impact: None

Explanation**State Impact:**

Requiring occupational services contractors to register with the Department of Consumer Protection (DCP) will result in a revenue gain to the Department of Consumer Protection. The non-refundable licensure application fee is \$110 and the annual licensure renewal fee is \$55. The extent of the revenue gain cannot be determined because the number of entities making an application for an occupational services contractor registration is unknown.

It is expected that any modifications to the automated licensing system necessary for a new registration can be accommodated within the Department of Consumer Protection's existing resources and will have no fiscal impact. The bill authorizes the DCP commissioner to investigate and hold hearings, which can be handled within the agency's anticipated budgetary resources.

A violation of any of the bill's provisions is an unfair trade practice. Under the Unfair Trade Practices Act, the Department of Consumer

Protection (DCP) has two methods for resolving complaints, 1) formal administrative hearings; or 2) forwarding the complaint to the Attorney General's office for litigation. If most of the cases are handled administratively by DCP, the workload increase to the Office of the Attorney General is expected to be minimal and can be handled within the agency's anticipated budgetary resources. Under the Unfair Trade Practices Act, civil penalties can be imposed for violations, the extent of the additional revenue cannot be determined, as it would depend upon the number of violations which occurred and the amount of the penalties that are imposed. There would be a minimal workload increase for the DCP associated with increased consumer inquiries and complaints and the possible hearings as a result of this bill. This, along with other minimal cost bills, could cause the Department of Consumer Protection to go beyond the anticipated budgetary resources of the agency.

OLR Bill Analysis

SB 576

AN ACT CONCERNING OCCUPATIONAL SERVICES CONTRACTORS.**SUMMARY:**

This bill requires occupational services contractors to register with the Department of Consumer Protection (DCP). It defines "occupational services contractors" as businesses that (1) publicly offer (advertise) the services of a subcontractor or its employees to perform plumbing or heating, piping and cooling work; (2) are not required to register with DCP as mechanical contractors; and (3) are not businesses in which a state-licensed contractor is an owner, principal, or officer.

The bill requires registered occupational contractors to display their registration numbers on all commercial vehicles and conspicuously on all the printed advertisements, bid proposals, contracts, invoices, and stationery they use in the business.

In addition, it establishes application and registration requirements, vests the consumer protection commissioner and attorney general with disciplinary powers, establishes disciplinary procedures, and authorizes the commissioner to adopt implementing regulations. The bill exempts certain tradesmen.

A violation of any of the bill is an unfair trade practice.

EFFECTIVE DATE: October 1, 2000

APPLICATION

An applicant must apply in writing on prescribed forms, including his name, business name, business address, and any other information the DCP commissioner requires and pay a \$110 nonrefundable fee. He must show that he (1) subcontracts with or employs only licensed or

registered individuals in accordance with occupational licensing law; (2) agrees that all plumbing and heating, piping and cooling work will be done in accordance with occupational licensing law; and (3) does not have any outstanding obligations to the state, including owed tax payments.

REGISTRATION

A registration certificate is valid for one year and is not assignable. The renewal fee is \$55. The DCP commissioner must keep a register of all registered occupational services contractors.

The bill prohibits registered occupational services contractors from (1) using another's registration certificate; (2) knowingly giving false evidence to obtain a certificate; (3) using, or trying to use, an expired, suspended, or revoked certificate; (4) performing, or offering to perform, plumbing or heating, piping and cooling work without being registered under the bill; and (5) representing in any way that the fact of registration constitutes state endorsement.

INVESTIGATIONS

The bill authorizes the DCP commissioner to investigate and hold hearings. He may issue subpoenas, administer oaths, compel testimony, and order the production of books, records, and documents. The commissioner may seek court enforcement of such orders.

HEARINGS AND ENFORCEMENT

If the commissioner refuses to issue or renew a registration certificate, he must give notice by certified mail and an opportunity to request a hearing, which must be held within 10 days after he receives a request. He must also hold a hearing before suspending or revoking a registration certificate. All hearings must be held in accordance with the Uniform Administrative Procedure Act. The bill authorizes an occupational services contractor aggrieved by an order issued by the commissioner to appeal to Superior Court.

The bill authorizes the attorney general, at the commissioner's request,

to seek temporary or permanent restraining orders to prevent further violations of the occupational services contractor law.

EXEMPTIONS

The bill exempts (1) federal, state, and municipal government and their departments and agencies and (2) public or private schools offering training in plumbing or heating, piping and cooling work as part of a vocational educational program.

BACKGROUND

CONNECTICUT UNFAIR TRADE PRACTICES ACT

Under (CUTPA), the consumer protection commissioner may investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, accept voluntary statements of compliance, and issue regulations defining what constitutes an unfair trade practice. The act also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties up to \$5,000 for willful violations and \$25,000 for violating restraining orders.

COMMITTEE ACTION

General Law Committee

Joint Favorable Report

Yea 15 Nay 0